

Commercial Motor Vehicle

Enforcement Quarterly



Captain's Corner

Wow, where do I begin? As we enter the new year there is so much going on in the commercial vehicle enforcement world. On January 4, the new federal regulations governing driver's hours of service and load securement took effect. Reauthorization of the six-year federal transportation funding bill remains unresolved in the United States Congress. Homeland security remains a top priority. These are but a few of the many issues and challenges we will be dealing with throughout 2004.

As I write this article our nation is under a high alert (orange) status for possible terrorist attacks. In response, we have increased our enforcement presence at our international border crossings in Detroit, Port Huron, and Sault Ste. Marie and also at the Mackinac Bridge. We also increased our focus on trucks transporting hazardous materials. I encourage all in law enforcement to pay closer attention to the potential threat of a commercial motor vehicle being used as a weapon of mass destruction by foreign or domestic terrorists.

The new hours of service and load securement rules are complex, confusing, and creating a great deal of anxiety throughout the trucking industry and law enforcement. If you have questions, please do not hesitate to contact the State Police Motor Carrier Division and we will try to provide some answer and guidance. Two other great resources for questions on all matters involving CMV safety and enforcement are the Federal Motor Carrier Safety Administration's website (www.FMCSA.dot.gov) and the Michigan Center for Truck Safety's hotline (800-682-4682 in the Lower Peninsula or 800-469-7364 in the Upper Peninsula).

In the last issue of the CMV Enforcement Quarterly I mentioned that a soon-to-be-released study would show that seat belt use by truck drivers is significantly lower than seat belt usage by passenger vehicle drivers. Well, on December 9, 2003, U.S. Transportation Secretary Norman Mineta released the findings from this study and announced a new national public - private partnership to combat low safety belt use among the nation's commercial motor vehicle drivers. This initiative will utilize enhanced education and enforcement. Currently, safety belt use by passenger car drivers stands at 84.5 percent while the usage by truck drivers is only 48 percent. One of the reasons often given by truck drivers for not wearing a seat belt is the false belief that the size and mass of their vehicle will protect them in a crash. I strongly

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Vehicle Code

Act 300 - Spilling

Section 257.720(1) of the Motor Vehicle Code prohibits the dropping or spilling of items from a vehicle. The items(s) do not have to be cargo - any item, from loose sheets of paper to spare tires, must be secured from "dropping, sifting, leaking, blowing off, or otherwise escaping from the vehicle." The vehicle must be constructed or loaded to prevent spillage. The tailgate, faucets, and taps on a vehicle must be securely closed whether the vehicle is empty or loaded. The vehicle cannot have any holes through which material may escape.

Subsection (1) also provides two exemptions from the above requirements. The first is for vehicles transporting agricultural or horticultural products when hay, straw, silage, or residue from the product, but not including the product itself, or when materials such as water used to preserve and handle agricultural or horticultural products escape from the vehicle. The second exemption is for highway maintenance vehicles engaged in either ice or snow removal.

Subsection (3) applies to vehicles transporting products other than logs or tubular products and that are not completely enclosed. Those vehicles must do one of the following:

1. Cover the load with a firmly secured canvas or similar type of covering. Devices used to comply with this section are allowed an overall width of 108", but cannot by design or use have the capability of carrying cargo.

This provision does not apply to vehicles engaged in work upon the surface of a highway or street in a designated work area (8). It also does not apply to items of a load which because of their weight will not fall off the vehicle and have a center of gravity located at least 6" below the top of the enclosure, nor to a vehicle carrying metal which because of its weight and density is so loaded to prevent it from dropping or falling.

2. Have the load securely fastened to the body or frame with binders of adequate number and breaking strength to prevent the load from shifting or falling off.

Subsection (6) exempts vehicles transporting agricultural commodities or a farm truck or implement of husbandry that is transporting sand, gravel, and dirt necessary in the normal operation of a farm from the requirements of subsection (3). However, these vehicles are prohibited from spilling on a roadway. Essentially, farm use vehicles do not have to tarp, but are prohibited from spilling. A farm license plate is not re-

quired to be eligible for these provisions.

Actual spillage or proof of that spillage is not required to prove a violation. A company or individual who loads the vehicle may be cited for a violation of this section.

Subsection (9) prohibits vehicles equipped with a front end loading device with a tine protruding parallel to the highway beyond the front bumper unless the tine is carrying a load designed to be carried by the front end loading device. This provision does not apply to agricultural commodities, construction activities, or to a vehicle en route to a repair facility.

Violations of Section 257.720 are misdemeanors, punishable by a \$500 fine and/or 90 days in jail. The offense code is 8022.

Captain's Corner continued

believe that the key to increasing seat usage by truck driver is enforcement. Accordingly, I encourage all law enforcement agencies to adopt a zero-tolerance policy for safety belt enforcement. Further information about the national CMV seat belt study can be found on the FMCSA website.

In the last issue I also mentioned that the effective date for requiring criminal background checks for CDL licenses with a hazmat endorsement would be postponed from the original date of November 4, 2003. That did occur and the new implementation date is now April 1, 2004.

The Motor Carrier Division in cooperation with the Michigan Department of Education, has launched an initiative to teach new drivers how to safely share the road with large trucks. Motor Carrier Officers, upon request, are spending about an hour in driver's education classes explaining the physics of large trucks and sharing tips on how passenger car driver can safely commingle with commercial vehicles on our roadways. If you know of a driver's education program that might benefit from this training, please have them contact Ms. Michelle Briggs at 517-336-6448 for scheduling.

As you can see, everyone involved in commercial motor vehicle safety and enforcement can look forward to a very busy 2004. Have a safety and Happy New Year!

Frost Laws

Michigan has had restricted axle weights during the springtime thaw since the 1920s. Because of the extreme movement of pavement during the warming and cooling periods common during a Michigan spring, the vehicle's axle weight is reduced.

The statute regarding "frost laws," or "frost restrictions" is found at Section 257.722(7). This section mandates that the months of March, April and May are periods of reduced weights. There is no requirement for the authority with jurisdiction over the road to post the reductions during these months.

Subsection (9) allows the authority with jurisdiction (e.g., Michigan Department of Transportation or the County Road Commission) over the road to suspend reduced loading ("frost") restrictions during March, April and May. It also allows the authority with jurisdiction over the road to impose reduced loading restrictions at any other time of year the authority determines necessary. It is at these times that the authority must post the road(s) that are restricted.

The authority with jurisdiction over the road must reduce the axle weights for the road by 25% (concrete roads or roads with concrete base) or by 35% (all other roads). That reduces the normal base weight of 700 lbs. per inch of tire width to 525 lbs. for concrete roads or roads with a concrete base and 450 lbs. for all other roads. These percentages and pounds per inch limitations are found in Section 257.722(7).

It's important to realize that these reductions are for the gross weight of each axle. Some companies only reduce their payload by 25% or 35%, and forget that the empty weight of the vehicle also impacts the axle weight, leaving the vehicle in violation.

To determine the proper legal axle weight during reduced loading restrictions, first determine what each axle of the vehicle would be allowed without frost restrictions. This depends upon the designation (normal, designated, or special designated) of the road by the authority having jurisdiction. Then, determine whether the road is reduced by 25% or 35%. Again, this can be obtained from the authority having jurisdiction. Last, reduce the allowable axle weight by the proper percentage.

The Michigan Department of Transportation and most County Road Commissions have maps to show the designation of all the roads under their jurisdiction and whether the road is frost-free or frost restricted. All interstate freeways and most state highways are frost-free, but overweight permits are unavailable during times of reduced loading.

Section 257.722 also allows the Michigan Department of Transportation and County Road Commission to grant exemptions to milk transporters (subsection (8)), as well as permits to agricultural commodities transporters and public utilities (subsections (5) and (12)).

Below is a table of axle weights without reduced loading restrictions and what those axles would be allowed under a 25% or 35% reduction.

Weights without Restrictions	25% Reduction during reduced loading	35% Reduction during reduced loading
16,000	12,000	10,400
13,000	9,750	8,450
18,000	13,500	11,700
9,000	6,750	5,850
20,000	15,000	13,000
34,000	25,500	22,100
12,600	9,450	8,190
14,000	10,500	9,100
15,400	11,550	10,010
16,520	12,600	10,920

Cargo Theft and Homeland Security

Cargo theft is a \$10-15 billion business in the United States. There is no federal enforcement agency that is dedicated to cargo theft investigation, particularly since 9/11/01.

Most commercial cargo thefts are conducted by gangs. Gang members may get a job working on a dock, and spend several weeks gathering sufficient intelligence to select a particular shipment to hit. Others may simply take a chance and grab any semi trailer left sitting in a parking lot. Unattended semi trailers along the I-94 corridor are a favorite of cargo theft gangs.

Officers working commercial vehicle enforcement should get in the habit of asking drivers lots of questions about what they have on, where are they going, and where they are coming from. Often, because the theft was a chance opportunity, the driver will not have had sufficient time to develop a convincing story.

Other times, the driver may have a story line and even a set of bills. Always ask, "Does this make sense?" Why would a business transport "used furniture" (a favorite item on fake shipping papers) halfway across the country? Does the seal number and trailer/container number that you have stopped match the numbers indicated on the bill? Can the driver actually prove he/she works for that company? Individuals have actually impersonated legitimate trucking companies at shipper facilities in order to steal a shipment.

Shipments of electronics, alcohol, food-stuff, construction equipment, and just about anything else that can be sold quickly and no easy method to track serial numbers are popular theft items. Some semi trailer loads can represent a million dollars or more of merchandise.

Since the terrorist attacks of 9/11/01, increased scrutiny has been placed on the shipment of hazardous materials by highway. Many hazardous materials shipments can easily be converted to use in a terrorist attack. The materials used in Oklahoma City can easily be found at most farms, co-ops, and even hardware stores.

There are over 800,000 shipments of hazardous materials in the United States every day. These materials represent a wide range of hazards. Explosives, poisons, radioactive materials, and materials that react explosively to air, water, or even self-detonate are routinely transported for use in manufacturing and various industries.

The Federal Hazardous Materials Regulations (FHMR) now require shippers and transporters of hazardous materials to develop security plans to protect materials in their possession, as well as train their transportation personnel on security issues. While not enforceable on the roadside, officers should ensure local carriers and shippers are aware of this requirement.

While hijacking or illegally obtaining vehicles is certainly a possibility, terrorists operating as company employees are considered the bigger threat.

See the additional attachments (or links if online) that include two checklists, one for law enforcement and one for company officials and truck drivers.

REMINDER:

MPSC has requested that the enforcement of 2004 MPSC decals be delayed until January 26, 2004.

NOTICE!

The CMV Enforcement Quarterly is going electronic! Starting with the April 2004 edition, the Motor Carrier Division will **not** distribute paper copies of the Quarterly. Readers may access the Quarterly on our web site, www.michigan.gov/motorcarrier, or may subscribe to the MSP-TRUCK LAWS listserv to receive the Quarterly via email. The Quarterly is issued in January, April, July, and October of each year.

To subscribe to the MSP-TRUCK LAWS listserv, send or fax the email address you'd like the Quarterly sent to on your agency's letterhead to:

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